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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,925	06/20/2001	Seiichi Araki	MTSU-1001US	7925

21302 7590 01/13/2003

KNOBLE & YOSHIDA  
EIGHT PENN CENTER  
SUITE 1350, 1628 JOHN F KENNEDY BLVD  
PHILADELPHIA, PA 19103

EXAMINER

DAVIS, RUTH A

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 01/13/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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Commissioner of Patents and Trademarks

Newly submitted claims 122 – 152 (122, 124 – 137) are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The invention of claims 122 – 152 (122, 124 – 137) is drawn to a method for preventing of remedying an infection. The invention of the new claims lack a special technical feature with the invention originally presented, namely a composition comprising a sugar cane extract.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 122 – 152 (122, 124 – 137) are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on 12-13-2002 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because as stated above, the invention of claims 122 – 152 (122, 124 – 137) is drawn to a method for preventing of remedying an infection. The invention of the new claims lack a special technical feature with the invention originally presented, namely a composition comprising a sugar cane extract.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Applicant is directed to MPEP 818.02(2), which states:

Where claims to another invention are properly added and entered in the application before an action is given, they are treated as original claims for purposes of restriction only. The claims originally presented and acted upon by the Office on their merits determine the invention elected by an applicant in the application, and in any request for continued examination (RCE) which has been filed for the application. Subsequently presented claims to an invention other than that acted upon should be treated as provided in MPEP §821.03.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Davis, whose telephone number is (703) 308-6310.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn, can be reached on (703) 308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

LEON B. LANKFORD, JR.  
PRIMARY EXAMINER